

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION****ENTERED**

May 31, 2024

Nathan Ochsner, Clerk

FERNANDO LAGUNAS, on behalf of
himself and others similarly situated,

Plaintiff,

v.

LA RANCHERA, INC.,

Defendant.

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CIVIL ACTION NO. H-22-17

ORDER

Fernando Lagunas drove a truck delivering tortillas and other food products to customers of La Ranchera, Inc. Lagunas alleges that La Ranchera failed to pay him and other similarly situated truck drivers overtime pay for working more than 40 hours in a work week, in violation of the Fair Labor Standards Act. The court previously denied La Ranchera's motion for summary judgment, finding genuine factual disputes material to determining whether (1) Lagunas was an employee of La Ranchera instead of an independent contractor, and (2) the FLSA's "outside salesman" exemption applied. (Docket Entry No. 72). Lagunas has now filed his own motion for summary judgment, arguing that these issues can be resolved in his favor as a matter of law. (Docket Entry No. 73). Lagunas has not submitted any evidence that was not already before the court in ruling on La Ranchera's motion for summary judgment. The material factual disputes that precluded summary judgment for La Ranchera also preclude summary judgment for Lagunas. The motion is denied.

SIGNED on May 31, 2024, at Houston, Texas.



Lee H. Rosenthal
United States District Judge